

REMARKS

Reconsideration is requested.

Claims 1-24 and 44 have been canceled, without prejudice. Claims 25-43 and 45-48 are pending.

The claims have been amended to recite further aspects of the disclosed invention. The amended claims 25, 26, 45 and 46, for example, are supported by the disclosure on page 10, line 32. No new matter has been added.

The objection to the drawings is traversed. The recited aspect of the claims identified by the Examiner is supported by Figure 4 and in the specification at page 11, lines 27-31. Withdrawal of the objection to the drawings is therefore requested.

Similarly, the Section 112, first paragraph, rejection of claims 39 and 40 is traversed. The specification provides an enabling support for the rejected claims at, for example, Figure 4 and in the specification at page 11, lines 27-31. One of ordinary skill in the art reviewing the entirety of the specification would know how to make and use the claimed invention without undue experimentation. Withdrawal of the Section 112, first paragraph, rejection of claims 39 and 40 is requested.

The Section 102 rejection of claims 1-38, 43, 45 and 46 over Burnett (U.S. Patent No. 4,230,231), is traversed. Similarly, the Section 102 rejection of claims 1-38, 43, 45 and 48 over Mitchell (U.S. Patent No. 6,068,150), is traversed. Reconsideration and withdrawal of the rejections are requested in view of the following distinguishing comments.

The cited patents are believed to be similar in their disclosure. With reference to the earlier patent, the elastic stopper 24 of Figure 7 is understood to contain three

segments separated by large slots unable to retain the liquid by capillarity. As the threads of the cap seem to be very short, the applicants believe that the threads are disengaged before the pressure may equalize between the inside of the container and the outside atmosphere. Consequently, there is no pressure equalizing element which equalizes pressure between the inside zone and the outside of the container when the gripping portion of the cap is partially engaged with the gripping portion of the nozzle. The same analysis applies to U.S. Patent No. 6,068,150.

The claims are submitted to be patentable over Burnett and Mitchell.

The Section 103 rejection of claims 39-42 over Burnett or Mitchell in view of Bartell (U.S. Patent No. 3,834,571) or Rumpler (U.S. Patent No. 4,193,402), is traversed. Reconsideration and withdrawal of the rejection are requested in view of the following further comments.

Initially, the applicants note that the Examiner's secondary references (i.e., Bartell and Rumpler) fail to cure the deficiencies noted above with regard to Brunett and Mitchell.

Moreover, Bartell and Rumpler appear to be less relevant than Brunett and Mitchell and are understood to show a skirt disposed inside the nozzle having a length equal to the length of the nozzle in Bartell and equal more or less to half of the length of the nozzle for Rumpler. The length of the tabs should be measured under the circular part of the skirt. Consequently, Bartell and Rumpler show tabs having a length lower than the length of the nozzle. In any event, the person of ordinary skill in the art would not have been motivated to have combined the references as suggested by the Examiner except, perhaps, through an impermissible use of hindsight.

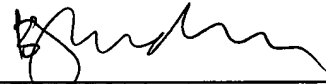
The claims are submitted to be patentable over the combination of art cited by the Examiner. Withdrawal of the Section 103 rejection of claims 39-42 is therefore requested.

The claims are submitted to be in condition for allowance and a Notice to that effect is requested. The Examiner is requested to contact the undersigned in the event anything further is required in this regard.

Respectfully submitted,

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By: _____



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